

TITLE 329 SOLID WASTE MANAGEMENT BOARD

Rule Proposed for Final Adoption

LSA Document #09-365

Digest

Adds and amends rules at 329 IAC 3.1 concerning temporary storage and management of spent lead acid batteries. Effective 30 days after filing with the Publisher.

HISTORY

First Notice of Comment Period: June 3, 2009, Indiana Register (DIN: 20090603-IR-329090365FNA).

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**329 IAC 3.1-11-2;
329 IAC 3.1-11.1;**

**329 IAC 3.1-11.1-3;
329 IAC 3.1-11.1-4;**

**329 IAC 3.1-11.1-5;
329 IAC 3.1-11.1-7**

SECTION 1. 329 IAC 3.1-11-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-11-2 Exceptions and additions; specific standards

Authority IC 13-14-8; IC 13-22-2-4

Affected IC 13-15-2; IC 13-22-2; 40 CFR 266

Sec. 2. Exceptions and additions to standards for the management of specific hazardous waste and specific types of hazardous waste facilities are as follows:

(1) Delete 40 CFR 266.23(b) and substitute the following: “No person may apply or allow the application of used oil as defined in 329 IAC 3.1-4 to any ground surface except for purposes of treatment in accordance with a permit issued by the department under IC 13-15-2. The use of unused waste oil or other waste material, which is contaminated with dioxin or hazardous waste or exhibits any characteristic of hazardous waste except ignitability for dust suppression or road treatment, is prohibited”.

(2) In 40 CFR 266.102(a)(2)(viii) dealing with applicable financial requirements for burners, the references to federal cites shall be converted as follows:

- (A) 264.141 means 329 IAC 3.1-15-2.
- (B) 264.142 means 329 IAC 3.1-15-3.
- (C) 264.143 means 329 IAC 3.1-15-4.
- (D) 264.147 through 264.151 means 329 IAC 3.1-15-8 through 329 IAC 3.1-15-10.

(3) Delete ~~40 CFR 266.80(b)~~ **40 CFR 266, Subpart G** and substitute the following—
“Owners or operators of facilities that store spent lead acid batteries before reclaiming them, other than spent batteries that are to be regenerated, are subject to the following requirements:

(A) Notification requirements under Section 3010 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.

(B) All applicable provisions in the following subparts of 40 CFR 264—

(i) Subpart A through subpart B, excluding 40 CFR 264.13.

(ii) Subpart C through subpart E, excluding 40 CFR 264.71 and 40 CFR 264.72.

(iii) Subpart F through subpart L.

(C) All applicable provisions in the following subparts of 40 CFR 265—

(i) Subpart A through subpart B, excluding 40 CFR 265.13.

(ii) Subpart C through subpart E, excluding 40 CFR 265.71 and 40 CFR 265.72.

(iii) Subpart F through subpart L.

(D) All applicable provisions in 40 CFR 270 and 40 CFR 124. insert **329 IAC 3.1-11.1.**

(Solid Waste Management Board; 329 IAC 3.1-11-2; filed Jan 24, 1992, 200 p.m. 15 IR 939; errata filed Feb 6, 1992, 315 p.m. 15 IR 1027; filed Oct 23, 1992, 1200 p.m. 16 IR 849; errata filed Nov 8, 1995, 400 p.m. 19 IR 353; filed Mar 19, 1998, 1005 a.m. 21 IR 2743; readopted filed Jan 10, 2001, 325 p.m. 24 IR 1535)

SECTION 2. 329 IAC 3.1-11.1 IS ADDED TO READ AS FOLLOWS:

Rule 11.1. Spent Lead Acid Batteries

329 IAC 3.1-11.1-1 Applicability

Authority IC 13-14-8; IC 13-22-2-4

Affected IC 13-15-2; IC 13-22-2

Sec. 1. (a) This rule applies to:

- (1) retailers as defined in IC 13-11-2-194(b);
- (2) wholesalers as defined in IC 13-11-2-267(b);
- (3) owners or operators of reclamation facilities;
- (4) owners or operators of intermediate storage facilities; and
- (5) owners or operators of other storage facilities that discard, dispose of, store, or recycle spent lead acid batteries.

(b) generators of spent lead acid batteries not listed in subsection (a) are not subject to this article, provided the batteries are reclaimed. *(Solid Waste Management Board; 329 IAC 3.1-11.1-1)*

329 IAC 3.1-11.1-2 Definitions

Authority IC 13-14-8; IC 13-22-2-4

Affected IC 13-11-2-118; IC 13-15-2; IC 13-22-2

Sec. 2. (a) The definitions in this section apply throughout this rule.

(b) “Battery breaking” or “battery cracking” means decapitating, cutting, or otherwise liberating the contents of a spent lead acid battery. This activity includes the following:

(1) Separating any component of the battery from the other components.

(2) Draining acid from the battery.

(3) Removing plates and groups from the battery.

(c) “Battery breaking facility” means a facility that engages in battery breaking or battery cracking.

(d) “Component” means any of the various materials and parts of a spent lead acid battery, including, but not limited to, the following:

(1) Plates and groups.

(2) Rubber and plastic case material.

(3) Acid.

(4) Paper cellulose material.

(e) “Intermediate storage facility” means a warehouse or other collection facility used for the temporary storage of whole spent lead acid batteries before sending the batteries to a spent lead acid battery reclamation facility. An intermediate storage facility excludes facilities belonging to the following:

(1) Retailers.

(2) Wholesalers.

(f) “Intermittent storage” means any storage activity that occurs after reclamation has commenced but before it is completed.

(g) “Large quantity intermediate storage facility” means a facility that accumulates more than five thousand (5,000) kilograms or eleven thousand twenty-three (11,023) pounds of spent lead acid batteries at any time.

(h) “Lead acid battery”, as defined in IC 13-11-2-118, means a battery that:

(1) contains lead and sulfuric acid; and

(2) has a nominal voltage of at least six (6) volts.

(i) “Partially reclaimed material” means a solid waste material that has been processed but must be processed further before recovery is complete. Partially reclaimed material results from the process of:

(1) battery breaking; and

(2) component separation.

(j) “Plates and groups” means the internal components of a spent lead acid battery that are constructed of lead or lead alloys, or both.

(k) “Reclamation facility” means a facility involved in the recovery of components from spent lead acid batteries, and includes:

(1) Battery breaking facilities.

(2) Secondary lead smelters or smelters.

(l) “Reclamation process” means the process of recovering components from whole spent lead acid batteries and includes, but is not limited to:

(1) battery cracking; and

(2) smelting.

(m) “Small quantity intermediate storage facility” means a facility that does not accumulate more than five thousand (5,000) kilograms or eleven thousand twenty-three (11,023) pounds of spent lead acid batteries at any time.

(n) “Spent lead acid battery”, for purposes of this rule, means any lead acid battery that has been used and can no longer serve the purpose for which it was produced without processing, or any lead acid battery being discarded, abandoned, disposed of, or reclaimed.

(o) “Staging” means holding whole spent lead acid batteries in trailers, which have arrived at a reclamation facility until the batteries can be transferred to a permitted storage area or moved into the reclamation process.

(p) “Storage,” for purposes of this rule, means the holding of spent lead acid batteries, or components thereof, for a temporary period, at the end of which the batteries or components are treated, disposed of, or stored elsewhere.

(q) “Whole spent lead acid battery” means a spent lead acid battery that has not been subjected to battery-breaking operations. (*Solid Waste Management Board; 329 IAC 3.1-11.1-2*)

329 IAC 3.1-11.1-3 Standards for retailers and wholesalers

Authority IC 13-14-8; IC 13-22-2-4

Affected IC 13-15-2; IC 13-20-16; IC 13-22-2

Sec. 3. Retailers and wholesalers that store spent lead acid batteries prior to sending off-site for storage or reclamation must comply with the requirement in IC 13-20-16 and the following:

(1) Spent lead acid batteries must be stored in a:

(A) building with a roof; or

(B) covered container that is

(i) in good condition; and

(ii) chemically compatible with the contents of the battery.

(2) Spent lead acid batteries must be stored upright and secured to prevent overturning.

(3) If a spent lead acid battery is not in good condition or begins to leak, the owner or operator of the facility must transfer the battery to a container that is:

(A) in good condition; and

(B) chemically compatible with the contents of the battery.

(*Solid Waste Management Board; 329 IAC 3.1-11.1-3*)

329 IAC 3.1-11.1-4 Standards for intermediate storage facilities

Authority IC 13-14-8; IC 13-22-2-4
Affected IC 13-15-2; IC 13-22-2

Sec. 4. Intermediate storage facilities shall comply with the following:

(1) For small quantity intermediate storage facilities:

(A) If a lead acid battery is not in good condition or begins to leak, the owner or operator must transfer the battery to a container that is:

- (i) in good condition; and**
- (ii) chemically compatible with the contents of the battery.**

(B) Batteries must be stored upright and secured to prevent overturning.

(C) Batteries must be stored in a building with a roof or stored in a covered container that is:

- (i) in good condition; and**
- (ii) chemically compatible with the contents of the battery.**

(D) Batteries may not be stored for more than three hundred sixty-five (365) consecutive days.

(E) Any spilled waste and contaminated equipment must be disposed or recycled in accordance with applicable solid waste rules at 329 IAC 10 and 329 IAC 11 or hazardous waste rules in this article.

(F) Any spent lead acid battery being discarded shall be sent to:

- (i) a RCRA permitted reclamation facility;**
- (ii) a universal waste handler in accordance with 329 IAC 3.1-16;**
- (iii) a facility collecting batteries for delivery to a recycling facility.**

(2) For large quantity intermediate storage facilities:

(A) The storage facility owner or operator must notify the commissioner of the following within thirty (30) days after the effective date of this rule:

- (i) location of the storage site.**
- (ii) contact information, including name, address and phone number.**

(B) If a lead acid battery is not in good condition or begins to leak, the owner or operator must transfer the battery to a container that is:

- (i) in good condition; and**
- (ii) chemically compatible with the contents of the battery.**

(C) Batteries must be stored upright and secured to prevent overturning.

(D) Batteries must be stored in a building with a roof or stored in a covered container that is:

- (i) in good condition; and**
- (ii) chemically compatible with the contents of the battery.**

(E) Batteries may not be stored for more than three hundred sixty-five (365) consecutive days.

(F) Any spilled waste and contaminated equipment must be disposed or recycled in accordance with applicable solid waste rules at 329 IAC 10 and 329 IAC 11 or hazardous waste rules in this article.

- (G) Any spent lead acid battery being discarded shall be sent to:
- (i) a RCRA permitted reclamation facility;
 - (ii) a universal waste handler in accordance with 329 IAC 3.1-16;
 - (iii) a facility collecting batteries for delivery to a recycling facility.

(Solid Waste Management Board; 329 IAC 3.1-11.1-4)

329 IAC 3.1-11.1-5 Standards for reclamation facilities

Authority IC 13-14-8; IC 13-22-2-4

Affected IC 13-15-2; IC 13-22-2

Sec. 5. (a) Owners or operators of reclamation facilities that store spent lead acid batteries before reclaiming them, other than spent batteries that are to be regenerated, are subject to the following requirements:

- (1) Notification requirements under 329 IAC 3.1-1-11.**
- (2) All applicable provisions in the following subparts of 40 CFR 264:**
 - (A) Subpart A through Subpart B, excluding 40 CFR 264.13.**
 - (B) Subpart C through Subpart E, excluding 40 CFR 264.71 and 40 CFR 264.72.**
 - (C) Subpart F through Subpart L.**
- (3) All applicable provisions in 329 IAC 3.1-13.**

(b) Reclamation facilities that do not complete the reclamation process on-site shall comply with all applicable generator requirements of 40 CFR 262 for the spent lead-acid battery components that are hazardous wastes based on a determination pursuant to 40 CFR 261, unless an exemption pursuant to 329 IAC 3.1-5-4 referencing 40 CFR 260.30 and 40 CFR 260.31 is granted by the commissioner.

(c) Whole spent lead acid batteries that are transported by trailer to reclamation facilities may be staged at the reclamation facility on an asphalt or concrete surface maintained in good condition and shall be processed, or put into permitted storage, within fourteen (14) calendar days of receipt. The following conditions shall be met for staged batteries:

- (1) Weekly inspections of the staging area shall be performed as long as trailers remain in the area. Any indications that a trailer is leaking will require an immediate inspection to determine the source of the leak. If the batteries are the source of the leak, either the entire load shall be processed immediately or the leaking batteries shall be removed from the trailer and stored in a covered container that is:**
 - (A) in good condition; and**
 - (B) chemically compatible with the contents of the battery.**
- (2) Spills must be addressed per the facility's IDEM approved contingency plan or spill response plan.**
- (3) Operating records will consist of the documentation on inspections conducted under subdivision (1).**

(d) For reclamation facilities existing on the effective date of this rule that complete the reclamation process on-site and operate without a containment building permit, the following standards must be met for partially reclaimed material, unless an exemption under 329 IAC 3.1-5-4 referencing 40 CFR 260.30 and 40 CFR 260.31 is granted by the commissioner:

(1) Partially reclaimed materials must be stored inside a completely enclosed structure (with walls and under roof) maintained in good condition such that there is no significant deterioration that could allow contaminants to be released.

(2) Partially reclaimed materials must be either:

(A) stored in containers meeting the applicable requirements of 40 CFR 265, Subpart I, or

(B) stored on a base that is constructed of man-made materials, that is chemically compatible with the partially reclaimed materials, and constructed of sufficient structural strength to support the weight of the materials and any personnel and heavy equipment operating on the base.

(3) If the base is coated, it must be inspected weekly for any evidence of significant cracks or other deterioration that could allow a release of contaminants to the environment and repaired within seventy-two (72) hours of discovery. If the base is not coated, it must be inspected daily and any evidence of significant cracks or other deterioration that could lead to a release of contaminants to the environment repaired within seventy-two (72) hours of discovery.

(4) For units managing free liquids or treated with free liquids, the owner or operator must include a liquid collection and removal system. The concrete base must be sloped to facilitate drainage.

(5) Acid and any other liquids from the reclamation process shall be either:

(A) sent to an on-site tank system that is part of a wastewater treatment facility subject to regulation under either Section 402 or 307(b) of the Clean Water Act; or

(B) managed in accordance with all applicable rules.

(6) Contaminants must be contained within the building. An area must be designated for decontamination of personnel and equipment. Any rinsate, if hazardous, must be collected and properly managed according to 40 CFR 262 or sent to on-site tank systems that are part of a wastewater treatment facility subject to regulation under either Section 402 or 307(b) of the Clean Water Act. If the rinsate is not hazardous, it must be managed in accordance with applicable solid waste rules at 329 IAC 10 or sent to an on-site wastewater treatment facility.

(7) Fugitive dust emissions must be controlled in accordance with 40 CFR ~~264-265.1101(c)(1)(iv)~~.

(8) All waste streams generated during the reclamation process that are identified as hazardous waste under 40 CFR 261 must be managed according to 40 CFR 262.34 or this section.

(e) Reclamation facilities with a containment building permit as of the effective date of this rule, or reclamation facilities commencing operations after the effective date of this

rule must:

- (1) comply with all applicable portions of 40 CFR 261 and 262.34; and,
- (2) if not permitted, obtain and maintain a containment building permit in accordance with 329 IAC 3.1-13-3. Information demonstrating compliance with 40 CFR 264, Subpart DD for storage of partially reclaimed materials in indoor piles for greater than 90 days, or for storage of partially reclaimed materials received from off-site in indoor piles must be included in the permit application, unless an exemption under 329 IAC 3.1-5-4 referencing 40 CFR 260.30 and 40 CFR 260.31 is granted by the commissioner.

(Solid Waste Management Board; 329 IAC 3.1-11.1-5)

329 IAC 3.1-11.1-6 Transporters

Authority IC 13-14-8; IC 13-22-2-4
Affected IC 13-15-2; IC 13-22-2

Sec. 6. (a) Persons who engage in transporting components of a spent lead acid battery must comply with 329 IAC 3.1-8.

(b) Facilities that receive and store components of spent lead acid batteries that are a hazardous waste as identified in 40 CFR 261 must comply with the manifest requirements of 40 CFR 264, Subpart E as incorporated by reference in 329 IAC 3.1-9-1.

(c) The requirements of 40 CFR 264, Subpart E do not apply to the transportation of whole spent lead acid batteries. *(Solid Waste Management Board; 329 IAC 3.1-11.1-6) 329 IAC 3.1-11.1-7)*

329 IAC 3.1-11.1-7 Closure and corrective action

Authority IC 13-14-8; IC 13-22-2-4
Affected IC 13-15-2; IC 13-22-2; IC 13-25-5-8.5

Sec. 7. The closure requirements are as follows:

- (1) Permitted facilities are subject to the closure and post closure requirements of 40 CFR 264, Subpart G.**
- (2) At closure of unpermitted intermittent storage areas, the owner or operator must comply with 40 CFR 265.111 and 265.114.**
- (3) If the contaminated soils cannot be completely removed, the owner or operator must prepare a written plan to close the area in accordance with IC 13-12-3-2 and submit the plan to the commissioner for approval. The written plan must provide information equivalent to a proposed work plan under IC 13-25-5-7(b). If closure requirements are addressed in an exemption received under 329 IAC 3.1-5-4, the facility must follow the closure requirements contained in the exemption.**
- (4) At permitted facilities, corrective action for solid waste management units may be initiated at any time during the life of the facility.**

(Solid Waste Management Board; 329 IAC 3.1-11.1-7)